

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937**

**WP(C).No. 13170 of 2015 (U)**  
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**PETITIONER(S):**  
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**KALPATHARU RESORTS PVT LTD AGED 42 YEARS  
KURUMANDAL , SOUTH PARAVUR, KOLLAM  
REPRESENTED BY ITS GENERAL MANAGER JIJUMON C.M**

**BY ADVS.SRI.S.SANTHOSH KUMAR  
SMT.P.LISSY JOSE.**

**RESPONDENT(S):**  
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- 1. THE DEPUTY COMMISSIONER  
COMMEERCIAL TAXES, KOLLAM-691 013**
- 2. THE INTELLIGENCE OFFICER(INVESTIGATION BRANCH),  
COMMERCIAL TAXES,COMMERCIAL TAX COMPLEX,  
ASRAMAM,KOLLAM-691 002**

**R BY GOVERNMENT PLEADER, SRI. SUDHEESH KUMAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
28-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHBIIT P1 TRUE COPY OF THE PENALTY ORDER DATED 30-06-2014 FOR THE YEAR 2013-14
- EXHBIIT P2 TRUE COPY OF PENALTY ORDER DATED 30-06-20`14 FOR THE MONTH OF APRIL,2014
- EXHBIIT P3 TRUE COPY OF THE APPEAL DATED 26-11-2014 FOR THE YEAR 2013-14
- EXHBIIT P4 TRUE COPY OF APPEAL DATED 26-11-2014 FRO THE MONTH OF APRIL,2014
- EXHBIIT P5 TRUE COPY OF STAY PETITION DATED 26-11-2014 FILED IN EXT.P3 APPEAL
- EXHBIIT P6 TRUE COPY OF STAY PETITION DATED 26-11-2014 FILED IN EXT.P4 APPEAL
- EXHBIIT P7 TRUE COPY OF THE STAY ORDER DATED 8-12-2014 PASSED BY THE 1ST RESPONDENT
- EXHBITI P8 TRUE COPY OF JUDGMENT DATED 02-02-2015 IN WPC NO 3157/2015
- EXHBITI P9 TRUE COPY OF THE STAY ORDER DATED 11-03-2015 PASSED BY THE 1ST RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL

//True copy//

PA to Judge

**K.VINOD CHANDRAN, J.**

**W.P.(C). No. 13170 of 2015**

**Dated this the 28<sup>th</sup> day of April, 2015**

**JUDGMENT**

The petitioner is aggrieved with Ext.P9 order wherein the demand was kept in abeyance on condition of payment of Rs.1,10,530/- within 30 days of receipt of the order. The total demand was Rs.15,60,930/- and the conditional order was only to pay 35% of the demand. The petitioner also has a contention that the entire tax amounts were satisfied. However, that is not a reason to interdict the recovery of the demand made as per the penalty order.

2. In any event, the first appellate authority had considered the issue and on a prima facie consideration, directed payment of 35% of the total demand, which this Court, under Article 226, would not interfere with unless patent illegality or arbitrariness is writ large. There is nothing so indicative, so as to interfere with Ext.P9 order. The appellate authority has considered the issue before granting the interim order. Under such circumstances, the writ petition would stand dismissed, however, the petitioner would be granted two monthly installments to satisfy the order, i.e., on 15.05.2015 and 15.06.2015.

**K.VINOD CHANDRAN  
JUDGE**